IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1624 of 2003

Between:

1 K.Koteswara Rao S/o.Gopalkrishnaiah,
R/o.Plot.No.14,Street No.3,Kakatiyanagar, Hasbiguda, Hyderabad.
2 Smt.K.Kalavathi W/o.Koteswara Rao,
R/o.Plot.No.14,Street No.3,Kakatiyanagar, Hasbiguda, Hyderabad.
3 Smt.M.Bhadramma W/o.Gopalakrishnaiah,
R/o.Plot.No.14,Street No.3,Kakatiyanagar, Hasbiguda, Hyderabad.

..... PETITIONERS

AND

1 National Highway Authority of India,
Rep.by its Project Director, Upstairs, S.B.H. Office,

Gurunanak Nagar, Vijayawada.
2 The Mandal Revenue Officer,
Ibrahimpatnam Mandal, Krishna District.
3 Swarna Tollways Private Limited, rep. by its Director,

Plot.No.46-A, Hi-Tech City Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of the Writ of Mandamus declaring the action of the respondents as illegal and *ultra vires* to the provisions of Articles 14,21 and 300-A of the Constitution of India and also the mandatory provisions of the National Highways Act 1956, besides declaring that the respondents are not entitled to enter into the land of the petitioners being an extent of Ac.0.88 Cents situate in R.S.No.54/IA2 Tummapalem Village of Ibrahimpatnam Mandal, Krishna District.

Counsel for the Petitioners: MR.V.S.R.ANJANEYALU

Counsel for the Respondent No.1: MR.S. SRINIVASA VARMA

Counsel for the Respondent Nos.2: GP FOR REVENUE

Counsel for the Respondent No.3: None appeared.

The Court made the following:

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ORDER:

The writ petition is filed seeking declaration that the action of the respondents in trying to take over their land for the purpose of widening National Highway No.9 without following the provisions of the National Highways Act, 1956 (the Act, for brevity) as illegal and arbitrary. Though the matter is listed at the interlocutory stage, with the consent of the learned Counsel for the parties, the matter is finally heard and disposed of.

It is the case of the petitioners that they are owners of the land admeasuring Ac.0.88 cents in R.S. No.54/1A2 of Tummalapalem village in Ibrahimpatnam Mandal of Krishna District. The officials of the respondents came to their land on 23.1.2003 and marking the land for the purpose of widening the National Highway No.9 adjacent to their land. When the petitioners questioned the high handed act of marking their land, neither observing the provisions of Land Acquisition Act nor following the provisions of National Highways Act, 1956, the officials of the respondents intimidated the petitioners that they would be put behind the bars for causing obstruction to their legitimate duties. Therefore, they filed the present writ petition.

This Court while admitting the writ petition on 28.1.2003, passed interim orders directing the respondents not to demolish the structures in the land or dispossess the petitioners except by following due process of law. The first respondent filed counter affidavit accompanying the vacate petition wherein the allegations of the officials of the respondents visiting the petitioners' land on 23.1.2003, marking the land and intimidating the petitioners are denied. It is made clear that there is no notification under Section 3-A of the Act and in case of necessity of petitioners' land for the public purpose, this respondent would follow the procedure as contemplated under the Act.

No reply affidavit is filed by the petitioners denying the averments made by the first respondent in the counter affidavit filed by him. In that view of the matter, the apprehension of the petitioners is misconceived. However, it is made clear that the officials of the first respondent shall not in any manner interfere with the petitioners right over the land in dispute without following the due process of law under the Act. The interim order earlier granted by this Court is vacated and the writ petition is disposed of with the above observations.

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Date: September 2, 2004. (**V.V.S. RAO, J**)

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ASSISATNT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Project Director, National Highway Authority of India,
Upstairs, S.B.H. Office, Gurunanak Nagar, Vijayawada.
2 The Mandal Revenue Officer,
Ibrahimpatnam Mandal, Krishna District.
3 Two CCs to the Government Pleader for Revenue,

High Court of Andhra Pradesh, Hyderabd. (O.U.T)

4 Two CD copies.